

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

ESSIE BYRD O/B/O J.E.B.,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

\_\_\_\_\_ /

Case No. 09-11873

Honorable Victoria A. Roberts

Magistrate Judge Virginia M. Morgan

**ORDER ADOPTING REPORT AND RECOMMENDATION [24]**

I have before me Magistrate Judge Virginia M. Morgan's Report and Recommendation ("Report"). (Dkt. 24.) In her Report, Magistrate Judge Morgan recommends that I grant Defendant Commissioner of Social Security's Motion for Summary Judgment (Dkt. 22), and deny Plaintiff Byrd's Motion for Summary Judgment (Dkt. 21). Plaintiff filed an Objection to the Report. (Dkt. 25.) Having thoroughly considered Plaintiff's Objection and Magistrate Judge Morgan's Report, I conclude that Magistrate Judge Morgan correctly analyzed the issues and I agree with her recommendations.

It appears that Plaintiff's primary argument is that JEB's impairments have worsened since the administrative law judge's determination in February 2008. "If in fact [JEB's] condition ha[s] seriously degenerated, the appropriate remedy would have been to initiate a new claim for benefits as of the date that the condition aggravated to the point of constituting a disabling impairment." *Sizemore v. Sec'y of Health & Human Servs.*, 865 F.2d 709, 712 (6th Cir. 1988) (citing *Oliver v.*

*Sec'y of Health & Human Servs.*, 804 F.2d 964, 966 (6th Cir. 1986); *Ward v. Schweiker*, 686 F.2d 762, 786 & n.4 (9th Cir. 1982)).

Accordingly, I ADOPT Magistrate Judge Morgan's Report and Recommendation, OVERRULE Plaintiff's Objections, GRANT Defendant's Motion for Summary Judgment, DENY Plaintiff's Motion for Summary Judgment, and DISMISS the case WITH PREJUDICE.

**IT IS SO ORDERED.**

s/Victoria A. Roberts

Victoria A. Roberts

United States District Judge

Dated: September 28, 2010

The undersigned certifies that a copy of this document was served on the attorneys of record and Essie Byrd by electronic means or U.S. Mail on September 28, 2010.

s/Linda Vertriest

Deputy Clerk